

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Serial No. 10/736,446
Confirmation No. 3081

I hereby certify that this correspondence is being transmitted to the United States Patent & Trademark Office via electronic submission or facsimile on the date indicated below:

<u>02/05/2009</u>	<u>/Pamela Gerik/</u>
Date	Pamela Gerik

APPEAL BRIEF

Sir/Madam:

In response to the Notification of Non-Compliant Appeal Brief mailed January 26, 2009, Appellant presents a corrected Summary of Claimed Subject Matter. Appellants do not believe the entire appeal brief need be submitted, but will do so if deemed necessary by the Board or the Examiner.

The Commissioner is hereby authorized to charge the required fee(s) or credit any overpayment to Daffer McDaniel, LLP deposit account number 50-3268.

Respectfully submitted,

/Kevin L. Daffer/
Kevin L. Daffer
Reg. No. 34,146
Attorney for Appellant

Customer No. 35617
Date: February 5, 2009
KLD

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 9 describes a device for broadband transmission of digital optical signals between at least one first unit and at least one second unit traveling relative to the first unit along a given track, the device comprising (Specification -- pg. 2, lines 13-22), in association with the first unit: a data source for generating a serial data stream; an optical transmitter for generating optical signals from the serial data stream of the data source (Specification -- pg. 3, lines 8-9; pg. 3, lines 17-20); an optical waveguide for guiding the optical signals generated by the optical transmitter (Specification -- pg. 3, lines 10-11); and comprising, in association with the second unit: a coupling element for tapping optical signals from the optical waveguide (Specification -- pg. 3, lines 12-13); an optical receiver for receiving the signals tapped by the coupling element (Specification -- pg. 3, lines 13-15); a data sink for further processing the signals received by the optical receiver (Specification -- pg. 3, lines 22-24); an evaluation means comprising a micro controller and memory coupled to the receiver for measuring a value corresponding to an operating characteristic of a transmission path between the transmitter and receiver (Specification -- pg. 6, lines 1-3 and 18-21); and a controller coupled to the data source for receiving the value from the micro controller, and to modify the data rate or data package size depending on whether the value differs from a desired value (Specification -- pg. 3, lines 26-31; pg. 7; lines 1-5).

Independent claim 10 describes a device for broadband transmission of digital optical signals between at least one first unit and at least one second unit traveling relative to the first unit along a given track (Specification -- pg. 2, lines 13-22), the device comprising, in association with the first unit: a data source for generating a serial data stream; an optical transmitter for generating optical signals from the serial data stream of the data source (Specification -- pg. 3, lines 8-9 and 17-20); an optical waveguide for guiding the optical signals generated by the optical transmitter (Specification -- pg. 3, lines 10-11); and comprising, in association with the second unit: a coupling element for tapping optical signals from the optical waveguide; an optical receiver for receiving the signals tapped by the coupling element (Specification -- pg. 3, lines 12-15); a data sink for further processing the signals received by the optical receiver (Specification -- pg. 3, lines 22-24); a measuring device coupled to the optical

receiver for measuring a value corresponding to an operating characteristic of the optical waveguide, selected from the group consisting of signal-to-noise differences, bit error rate, and relative positions between the first and second units (pg. 5, lines 1-2 and 21-23); a micro controller for receiving the measured value and storing said value in memory if the value differs from a desired value (Specification -- pg. 6, lines 18-21); and a controller coupled between the data source and the optical transmitter for receiving the stored value and for modifying the data rate or data package size sent from the optical transmitter (Specification -- pg. 3, lines 26-31; pg. 7, lines 1-5).

Dependent claim 13 describes the device according to claim 9 or 10, wherein the measuring device is provided between the optical receiver and the data sink, wherein the measuring device has additional means for signaling incorrectly transmitted data via the micro controller to the controller by means of an auxiliary transmission channel, and wherein the controller is adapted to repeat a transmission of incorrectly received data packages upon request by the evaluation means (Specification -- pg. 5, line 31 – pg. 6, line 5).

Independent claim 16 describes a method for broadband transmission of digital signals between at least one first unit and at least one second unit traveling relative to the first unit along a given track (Specification -- pg. 2, lines 13-22; pg. 7, lines 13-18), the method comprising the steps of: generating from a data source at the first unit a serial data stream (Specification -- pg. 3, lines 8-9); generating optical signals from the serial data stream of the data source with an optical transmitter at the first unit (Specification -- pg. 3, lines 17-20); guiding the optical signals generated with the optical transmitter along an optical waveguide (Specification -- pg. 3, lines 10-11); tapping optical signals from the optical waveguide with a coupling element at the second unit (Specification -- pg. 3, lines 12-13); receiving the optical signals tapped with the coupling element with an optical receiver at the second unit (Specification -- pg. 3, lines 13-15); further processing the signals received by the optical receiver at a data sink at the second unit (Specification -- pg. 3, lines 22-24); performing dynamically during transmission of the digital signals (Specification -- pg. 6, lines 30-32): measuring the signals received by the optical receiver for determining a value which is representative of transmission characteristics of a data path between the transmitter and the receiver (Specification -- pg. 5, lines 1-2 and lines 21-23;

pg. 7, lines 1-3); and setting a data rate or a size of data packages for transmission along the data path in accordance with a comparison between the measured value and a desired value (Specification -- pg. 3, lines 26-31; pg. 7, lines 1-5).